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PATENT APPLICATION
Docket No. 11080.8

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | | |
|-----------------------|--|---|----------|
| In re application of: | |) | |
| | Justin Douglas Marty et al. |) | |
| Serial No.: | 10/665,344 |) | |
| Filed: | September 20, 2003 |) | Art Unit |
| For: | SYSTEMS AND METHODS FOR TRANSFORMABLE SUITS |) | 3765 |
| Examiner: | Tejash Patel |) | |

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8

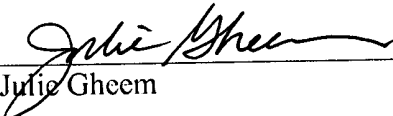
I hereby certify that the following correspondence:

- Fee Transmittal for FY 2005 (1 page)
- Response With Terminal Disclaimer (3 pages)

is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

on this 26th day of November, 2004.


Julie Gheem



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | | |
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| Serial No.: | 10/665,344 |) | |
| Filed: | September 20, 2003 |) | Art Unit |
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| For: | SYSTEMS AND METHODS FOR |) | |
| | TRANSFORMABLE SUITS |) | |
| Examiner: | Tejash Patel |) | |

RESPONSE WITH TERMINAL DISCLAIMER

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Response is filed in response to the Examiner's Office Action dated August 25, 2004. The Examiner will note that this Response is being timely filed as its due date falls on Thanksgiving, a federal holiday.

Double Patenting Rejections

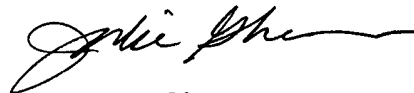
The Examiner has presented a double patenting rejection over patent no. 6,742,225 and a provisional double patenting rejection over application no. 10/638,990. Accordingly, Applicant herewith files a Terminal Disclaimer, with the accompanying fee, to overcome these rejections. Applicant's filing of the Terminal Disclaimer should not be construed as acquiescence of the Examiner's double patenting or obviousness-type double patenting rejections.

Conclusion

If additional issues remain which might be resolved by a telephone conference, the Examiner is respectfully invited to contact Julie Gheem, one of Applicant's attorneys of record, at (801) 323-5924.

DATED this 26th day of November, 2004.

Respectfully submitted,



Julie H. Gheem
Attorney for Applicant
Registration No. 47,592

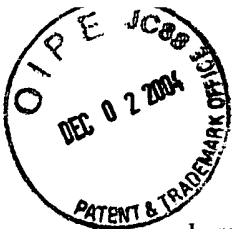
KIRTON & McCONKIE
1800 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111
Telephone: (801) 323-5924
Facsimile: (801) 321-4893

Enclosures:

-Terminal Disclaimer, Fee Transmittal

JHG

DOCS-#794370-v1-Response_to_OA_of_2004-08-25.DOC



In re application of: Justin Douglas Marty et al.
Serial No.: 10/665,344
Filed: September 20, 2003
For: SYSTEMS AND METHODS FOR TRANSFORMABLE SUITS
Examiner: Tejash Patel
Art Unit: 3765
Docket No.: 11080.8

TERMINAL DISCLAIMER

I. Terminal disclaimer with respect to prior patent no. 6,742,225

The owner, Z Gear, Inc., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 6,742,225. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.


II. Terminal disclaimer with respect to co-pending application no. 10/638,990

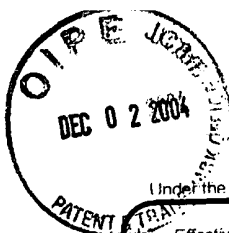
The owner, Z Gear, Inc., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 and 173 as shortened by any terminal disclaimer filed prior to the grant of any patent granted on pending second Application Number 10/638,990, filed on August 11, 2003, of any patent on the pending second application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the second application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of any patent granted on the second application, as shortened by any terminal disclaimer filed prior to the patent grant, in the event that any such granted patent: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

III. The fee under 37 CFR 1.20(d) for this Terminal Disclaimer is herewith included via authorization, in the enclosed Fee Transmittal, to charge the specified deposit account.

12/02/2004 SSESHE1 00000173 500843 10665344
01 FC:2814 55.00 DA


Julie Gheem
Attorney for Applicant



Effective on 10/01/2004. Patent fees are subject to annual revision.

FEE TRANSMITTAL

For FY 2005

☒ Applicant claims small entity status. See 37 CFR 1.27TOTAL AMOUNT OF PAYMENT (\$)
\$55.00

Complete if Known

| | |
|----------------------|-----------------------------|
| Application Number | 10/665,344 |
| Filing Date | Sept. 20, 2003 |
| First Named Inventor | Justin Douglas Marty et al. |
| Examiner Name | Tejash Patel |
| Art Unit | 3765 |
| Attorney Docket No. | 11080.8 |

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order☒ Deposit Account ☐ NoneDeposit
Account
Number
Deposit
Account
Name

50-0843

The Director is hereby authorized to: (check all that apply)

- ☒ Charge fee(s) indicated below
- ☐ Charge fee(s) indicated below, except for the filing fee
- ☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17
- ☐ Credit any overpayments

to the above-identified deposit account.

☒ Other (please identify): \$55 fee for filing Terminal Extension under 37 CFR 1.204

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

FEE CALCULATION

1. BASIC FILING FEE

| Fee Description | Fee (\$) | Small Entity Fee (\$) | Fee Paid (\$) |
|------------------------|----------|-----------------------|---------------|
| Utility Filing Fee | 790 | 395 | |
| Design Filing Fee | 350 | 175 | |
| Plant Filing Fee | 550 | 275 | |
| Reissue Filing Fee | 790 | 395 | |
| Provisional Filing Fee | 160 | 80 | |
| Subtotal (1) \$ | | | |

FEE CALCULATION (continued)

2. EXTRA CLAIM FEES

| Fee Description | Fee (\$) | Small Entity Fee (\$) |
|---|----------|-----------------------|
| Each claim over 20 | 18 | 9 |
| Each independent claim over 3 | 88 | 44 |
| Multiple dependent claims | 300 | 150 |
| For Reissues, each claim over 20 and more than in the original patent | 18 | 9 |
| For Reissues, each independent claim more than in the original patent | 88 | 44 |

| Total Claims | Extra Claims | Fee (\$) | Fee Paid (\$) |
|--------------|--------------|----------|---------------|
|--------------|--------------|----------|---------------|

- 20 or HP = $\frac{\text{Total Claims}}{20} \times \text{Fee}$ =
HP = highest number of total claims paid for, if greater than 20

| Indep. Claims | Extra Claims | Fee (\$) | Fee Paid (\$) |
|---------------|--------------|----------|---------------|
|---------------|--------------|----------|---------------|

- 3 or HP = $\frac{\text{Indep. Claims}}{3} \times \text{Fee}$ =
HP = highest number of independent claims paid for, if greater than 3

| Multiple Dependent Claims | Fee (\$) | Fee Paid (\$) |
|---------------------------|----------|---------------|
|---------------------------|----------|---------------|

Subtotal (2) \$

3. OTHER FEES

| Fee Description | Fee (\$) | Small Entity Fee (\$) | Fee Paid (\$) |
|-------------------------------------|----------|-----------------------|---------------|
| 1-month extension of time | 110 | 55 | |
| 2-month extension of time | 430 | 215 | |
| 3-month extension of time | 980 | 490 | |
| 4-month extension of time | 1,530 | 765 | |
| 5-month extension of time | 2,080 | 1,040 | |
| Information disclosure stmt. fee | 180 | 180 | |
| 37 CFR 1.17(q) processing fee | 50 | 50 | |
| Non-English specification | 130 | 130 | |
| Notice of Appeal | 340 | 170 | |
| Filing a brief in support of appeal | 340 | 170 | |
| Request for oral hearing | 300 | 150 | |
| Other: | | | |

Subtotal (3) \$

SUBMITTED BY

Signature: Julie Gheen
Name (Print/Type): Julie GheenRegistration No. 47,592
(Attorney/Agent)Telephone (89) 323-5924
Date Nov. 26, 2004

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.